House File 397 - Introduced

HOUSE FILE 397
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 3)

A BILL FOR

- 1 An Act relating to remote presence for purposes of notarial
- 2 acts and executing wills and codicils, and including
- 3 retroactive applicability provisions.
- 4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

H.F. 397

- 1 Section 1. Section 9B.14A, subsection 7, Code 2023, is
- 2 amended to read as follows:
- 3 7. Before a notary public performs the notary public's
- 4 initial notarial act under this section, the notary public
- 5 must notify the secretary of state that the notary public will
- 6 be performing notarial acts with respect to remotely located
- 7 individuals and identify the technologies the notary public
- 8 intends to use. If the secretary of state has established
- 9 standards under subsection 8 and section 9B.27 for approval of
- 10 communication technology or identity proofing, the all of the
- 11 following apply:
- 12 a. The communication technology and identity proofing the
- 13 notary public intends to use must conform to the standards.
- 14 b. If the notary public elects to use identity proofing
- 15 under subsection 3, paragraph "a", the identity proofing must
- 16 conform to the standards.
- 17 Sec. 2. Section 633.279, Code 2023, is amended by adding the
- 18 following new subsections:
- 19 NEW SUBSECTION. 3. Execution of remote will or codicil
- 20 in counterparts. When a will or codicil is executed using
- 21 remote signing under this section, the original document may
- 22 be executed in one or more counterparts by parties located
- 23 in different locations, and all such counterparts may be
- 24 aggregated to comprise the complete will or codicil of the
- 25 testator.
- NEW SUBSECTION. 4. Remote will or codicil under disaster
- 27 proclamation. Any will or codicil executed using the remote
- 28 signing procedures permitted under the proclamation of disaster
- 29 emergency of the governor issued April 2, 2020, and expired
- 30 February 15, 2022, shall be deemed to satisfy the presence
- 31 requirements of this section if the will or codicil was
- 32 executed during the effective period of the proclamation of
- 33 disaster emergency.
- 34 NEW SUBSECTION. 5. Definition. For purposes of this
- 35 section, "presence" means any manner, physical or electronic,

H.F. 397

- l in which the witness and testator can see and hear the acts of
- 2 each other in real time.
- 3 Sec. 3. RETROACTIVE APPLICABILITY. The following applies
- 4 retroactively to wills and codicils executed on or after April
- 5 2, 2020:
- 6 The portion of the section of this Act enacting section
- 7 633.279, subsection 4.
- 8 EXPLANATION
- 9 The inclusion of this explanation does not constitute agreement with 10 the explanation's substance by the members of the general assembly.
- 11 This bill relates to remote presence for purposes of
- 12 notarial acts and executing wills and codicils. The bill
- 13 requires that if a notary elects to use identity proofing for
- 14 purposes of performing notarial acts for remotely located
- 15 individuals, the identity proofing must conform to the
- 16 standards established by the secretary of state.
- 17 For purposes of executing wills and codicils, the bill
- 18 defines the term "presence" to mean any manner, physical or
- 19 electronic, in which the witness and testator can see and hear
- 20 the acts of each other in real time. The bill provides when a
- 21 will or codicil is executed using remote signing, the original
- 22 document may be executed in one or more counterparts by parties
- 23 located in different locations, which may be aggregated to
- 24 comprise the complete will or codicil.
- 25 The bill provides that any will or codicil executed using
- 26 remote signing procedures between April 2, 2020, and February
- 27 15, 2022, shall be deemed to satisfy the presence requirements,
- 28 pursuant to the governor's proclamation of disaster emergency.
- 29 This provision of the bill is retroactively applicable to April
- 30 2, 2020.